

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 5430 OF 2004 .

The State of Maharashtra & ors. ... Petitioners.

V/s.

Ramdas Soma Kadale

... Respondents.

Shri D.A. Patil, A.G.P. for the petitioners.

Shri C.T. Chandratre for the respondent.

CORAM : V.C.DAGA, J.

DATED : 20.3.2006.

P.C. :

. Heard learned Counsel for the petitioner.

Perused petition.

. Respondent was appointed as Driver on 14.11.1992. Since he was not given any break in service, he appears to have completed more than 240 days from the date of his appointment i.e. 14.11.1992.

. The respondent relying on a Government Resolution dated 31.1.1996 prayed that he be declared as deemed permanent. However, as per this G.R. it was necessary for the person claiming permanency to complete 5 years of continuous service as on 1.11.1994.

. The respondent-original complainant, who had

filed complaint on 22.8.2000 had not completed 5 years of service on 1.11.1994. However, when complaint was filed he had 5 years of service at his credit. The G.R. dated 31.1.1996 also mentions that there were 8048 permanent posts sanctioned by the State Government.

. The Industrial Court adjudicated the complaint on the basis of the contentions raised by the parties and directed the petitioner to grant permanency to respondent-complainant on the post of Driver w.e.f. the date of the order i.e. 17.9.2002. The view taken by the Court below is a reasonable and possible view and no material is placed on record to show that no permanent post is available in the establishment for making respondent-complainant permanent. This material, though available with the State Government is not produced on record. This is sufficient to draw adverse inference against the petitioner-State and to hold that had the material been placed on record, it would not have helped the petitioner.

. In this view of the matter, petition is devoid of any substance. It is dismissed in limine with no order as to costs.

(V.C.DAGA,J.)